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ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			DUONG, THOMAS	
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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/693,512

Filing Date: October 20, 2000

Appellant(s): SHORT ET AL.

Short et al.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 11, 2005 appealing from the Office action mailed July 14, 2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,453,361	Morris	09-2002
6,226,675	Meltzer et al.	05-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morris (US006453361B1) and in view of Meltzer et al. (US006226675B1).

With regard to claims 1-2, 8, and 14, Morris discloses,

- *a subscriber interface (CGMAPI) for adapting to a subscriber computer (PC, PDA or cell phone) that is connected to the gateway device (gateway server) to facilitate communications between the subscriber computer and at least one network; and* (Morris, col.3, lines 39-41; col.5, lines 42-49, lines 52-59; module 21 on sheet 1, fig.1)

However, Morris reference does not explicitly disclose,

- *an XML interface for communicating with an external device via a series of XML commands and responses such that the gateway device supports communications involving the subscriber computer and the external device without requiring the subscriber computer to support XML commands and responses.*

Meltzer teaches,

- *an XML interface (network interface) for communicating with an external device (diverse nodes) via a series of XML commands and responses such that the gateway device supports communications involving the subscriber computer and the external device without requiring the subscriber computer to support XML commands and responses. (Meltzer, col.21, lines 41-45; col.23, lines 38-60; modules 300-304 on sheet 3, fig.3; sheet 4, fig.4)*

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Meltzer reference with Morris reference to facilitate interactions amongst diverse platforms in a communication network by eliminating the prior agreement on industry wide standards or custom integration. Furthermore, such systems should encourage incremental path to business automation, to eliminate much of the time, cost and risks of traditional systems integration (Meltzer, col.2, lines 18-25).

With regard to claims 3, 9, and 16, Morris and Meltzer disclose,

- *wherein said XML interface comprises a parser front end for determining the type of operation requested by the external device. (Meltzer, col.21, lines 44-47; col.23, lines 41-45; module 301 on sheet 3, fig.3; module 401 on sheet 4, fig.4)*

With regard to claims 4-5, 10-11, and 17-18, Morris and Meltzer disclose,

- *wherein said XML interface comprises a parser section for organizing elements parsed from at least one of an XML command and an XML response and for passing at least some of the elements to a requested application.* (Meltzer, col.21, lines 47-52, lines 60-64; col.23, lines 46-53; module 304 on sheet 3, fig.3; module 404 on sheet 4, fig.4)
- *wherein said parser section also nests the elements to be passed to the requested application within an application programming interface (API) wrapper.*(Meltzer, col.25, line 66 – col.26, line 8; module 515 on sheet 5, fig.5)

With regard to claims 6-7 and 12-13, Morris and Meltzer disclose,

- *wherein said XML interface comprises a building section for preparing responses to requests received by the gateway device.* (Meltzer, col.23, lines 23-28, lines 53-60; modules 406-407 on sheet 4, fig.4)
- *wherein said building section assembles results returned by a requested application into an XML response.* (Meltzer, col.23, lines 23-28, lines 53-60; modules 406-407 on sheet 4, fig.4)

With regard to claim 15, Morris and Meltzer disclose,

- *wherein receiving an XML command comprises receiving an XML command at the gateway device from a billing and content server* (Meltzer, col.21, line 64 – col.22, line 2; modules 305-307 on sheet 3, fig.3)

(10) Response to Argument

With regard to claims 8 and 2, the Applicants point out that:

- (1) Applicants submit that neither the primary reference (the '361 Morris patent) nor the secondary reference (the '675 Meltzer patent) disclose a gateway device that includes an internal web server. This aspect of the invention is claimed in independent claim 8 and dependent claim 2 and provides for communicating with both the XML interface and the Internet to thereby facilitate XML-based communications between the gateway device and external devices connected to the Internet. Applicant can find no disclosure within either the primary or secondary reference for an internal web server used for the purpose as claimed.
The Examiner made no specific citation in either of the issued Office Actions to disclosure in either the primary or secondary reference of an internal web server.

However, the Examiner finds that the Applicants' arguments are not persuasive because Morris discloses, "*the image gateway 18 includes a gateway server 20*" (Morris, col.5, lines 26-27) and that "*the gateway server 20 performs the function of a web server*" (Morris, col.5, lines 42-43). Furthermore, referring to figure 1, Morris discloses a gateway server 20 (i.e., Applicants' *internal web server*) that is included in the *image gateway 18* (i.e., Applicants' *gateway device*). Hence, Morris teaches of a web server that is internal to a gateway device.

With regard to claims 1-2, 8, and 14, the Applicants point out that:

- (1) Applicants submit that the Examiner has not established the prima facia case for obviousness as required per 35 U.S.C. 35 § 103 (a) because the combined

references do not teach the present invention and no motivation exists to combine the teachings of the cited references.

However, the Examiner finds that the Applicants' arguments are not persuasive because Morris discloses,

- *a subscriber interface for adapting to a subscriber computer that is connected to the gateway device to facilitate communications between the subscriber computer and at least one network; and* (Morris, col.3, lines 39-41; col.5, lines 42-49, lines 52-59; module 21 on sheet 1, fig.1)

Morris discloses, "*in a preferred embodiment, the gateway server 20 communicates with the meta-application 22 through gateway server meta-application programming interface (GCMAPI) 21. This GCMAPI 21 between the gateway server 20 and the meta-application 22 enables the gateway server 20 to pass the data and service requests of the client devices 12 to the meta-application 22 in a device independent fashion*" (Morris, col.5, lines 53-59).

Hence, Morris teaches of an interface (i.e., Morris' GCMAPI) that enables the subscriber computer (i.e., Morris' *client devices such as PC, digital camera, PDA, cell phone, etc.*) connected to the gateway device (i.e., Morris' *image gateway*) "*to pass the data and service requests of the client devices 12 to the meta-application 22 in a device independent fashion*" (Morris, col.5, lines 57-59).

However, Morris does not explicitly disclose,

- *an XML interface for communicating with an external device via a series of XML commands and responses such that the gateway device supports communications involving the subscriber computer and the external device*

without requiring the subscriber computer to support XML commands and responses.

Meltzer teaches,

- *an XML interface for communicating with an external device via a series of XML commands and responses such that the gateway device supports communications involving the subscriber computer and the external device without requiring the subscriber computer to support XML commands and responses.* (Meltzer, col.21, lines 41-45; col.23, lines 38-60; col.79, line 34 – col.80, line 21; modules 300-304 on sheet 3, fig.3; sheet 4, fig.4; fig.15)

Meltzer discloses, “*the market maker node includes a communication agent 1500 at the network interface. The communication agent is coupled with an XML parser 1501 which supplies events to an XML processor 1502... The communication agent 1500 is an Internet interface which includes appropriate protocol stacks supporting protocols as HTTP, SMTP, FTP or other protocols.*

Thus, the incoming data could come in an XML syntax, an ASCII data syntax or other syntax as suits a particular communication channel. All the documents received in non-XML syntaxes are translated into XML and passed XML parser.

A translation table 1506 is used to support the translation from non-XML form into XML form” (Meltzer, col.79, lines 36-52). Hence, Meltzer teaches of a network node (i.e., Applicant’s gateway device) that contains an XML parser and processor for translating and processing of the incoming non-XML data into XML data for communication with the enterprise’s servers providing requested services.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Meltzer with the teachings of Morris to “[facilitate] interactions amongst diverse platforms in a communication network. Such system should facilitate spontaneous commerce between trading partners without custom integration or prior agreement on industry wide standards. Furthermore, such systems should encourage incremental path to business automation, to eliminate much of the time, cost and risks of traditional systems integration” (Meltzer, col.2, lines 18-25). In addition, Morris discloses, “the meta-application 27 abstracts the underlying data model and the function provided by the photo-service sites 14, which is common across the photo-service sites 14, to define a common data model format for the data, referred to here as a meta photo-service model. In a preferred embodiment, the meta photo-service model is implemented using XML” (Morris, col.6, lines 1-7). Hence, Morris provides the motivation for one of ordinary skill in the art to combine the teachings of Meltzer to translate non-XML data to XML data by a communication node to facilitate interactions amongst diverse platforms in a communication network.

With regard to claims 1, 8, and 14, the Applicants point out that:

- (3) Applicants submit that neither the primary reference (the '361 Morris patent) nor the secondary reference (the '675 Meltzer patent) disclose a gateway device that operates at a network access point, such that, the gateway device provides subscriber computers network access control. This aspect of the present invention is claimed in independent Claims 1, 8 and 14 and is a necessary requirement of the present invention for the purpose of providing XML

translations to all external device communications, requiring such, that are located downstream from the access point. The '361 Morris patent discloses a gateway device/server that is located at a network site and grants access to a network site. The Examiner argues that since the gateway device controls access to servers at the network site it is therefore located at a "network access point". The Applicant asserts and illustrates below that the term "network access point" is well defined in the art of networking; that it is a point located prior to entry into the Internet or any other network service and that it does not encompass a "site access point".

However, the Examiner finds that the Applicants' arguments are not persuasive because Morris discloses, "*the image gateway 18 includes a gateway server 20*" (Morris, col.5, lines 26-27) and that "*the gateway server 20 performs the function of a web server*" (Morris, col.5, lines 42-43). Furthermore, referring to figure 1, Morris discloses a gateway server 20 (i.e., Applicants' *internal web server*) that is included in the *image gateway 18* (i.e., Applicants' *gateway device*). In addition, according to Morris, "*the gateway performs two basic services for the client. First it is the camera's home base, which provides authentication services (user and device) and configuration services (it updates the camera's configuration, so the user doesn't have to)*" (Morris, col.2, lines 10-14). Also, referring to figure 1 of Morris, from the perspective of the client devices such as PC, digital camera, PDA, cell phone, etc., the *image gateway 18*, which includes the internal gateway server 20, is the "*network access point*" to the photo service sites 14's. Even furthermore, well known to one of ordinary skill in the networking art, the term "*gateway*" is synonymous with a "*network access point*". Hence, Morris teaches of a gateway server that is internal to an

image gateway, which is also a “*network access point*” from the perspective of the photo service sites 14’s.

With regard to heading B.1, the Applicants point out that:

- Applicant respectfully argues that neither the ‘361 Morris patent nor the ‘675 Meltzer patent provide any teaching of a gateway device that includes an internal web server for communicating with both the XML interface and the Internet to facilitate XML-based communication between the gateway device and the external devices connected to the Internet. Dependent Claim 1 and independent Claim 8 of the present invention define the gateway device of the present invention as including such an internal web server.

However, the Examiner finds that the Applicants’ arguments are not persuasive because, referring to figure 1, Morris discloses HTML streams coming the client devices such as PC, digital camera, PDA, cell phone, etc. to the image gateway 18 via the Internet.

In addition, Morris discloses, “*in a preferred embodiment, the gateway server 20 communicates with the meta-application 22 through gateway server meta-application programming interface (GCMAPI) 21. This GCMAPI 21 between the gateway server 20 and the meta-application 22 enables the gateway server 20 to pass the data and service requests of the client devices 12 to the meta-application 22 in a device independent fashion*” (Morris, col.5, lines 53-59). Morris also discloses, “*the meta-application 27 abstracts the underlying data model and the function provided by the photo-service sites 14, which is common across the photo-service sites 14, to define a common data model format for the data, referred to here as a meta photo-service*

model. In a preferred embodiment, the meta photo-service model is implemented using XML" (Morris, col.6, lines 1-7). Hence, Morris teaches of an interface (i.e., Morris' GCMAP) that enables the subscriber computer (i.e., Morris' client devices such as PC, digital camera, PDA, cell phone, etc.) connected to the gateway device (i.e., Morris' image gateway) "to pass the data and service requests of the client devices 12 to the meta-application 22 in a device independent fashion" (Morris, col.5, lines 57-59).

Finally, Morris discloses, "*the image gateway 18 includes a gateway server 20*" (Morris, col.5, lines 26-27) and that "*the gateway server 20 performs the function of a web server*" (Morris, col.5, lines 42-43). Furthermore, referring to figure 1, Morris discloses a gateway server 20 (i.e., Applicants' internal web server) that is included in the image gateway 18 (i.e., Applicants' gateway device). Hence, Morris teaches of a web server that is internal to a gateway device.

With regard to heading B.1, the Applicants point out that:

- The Applicant acknowledges that the '361 Morris patent discloses at Column 5, lines 42-43, that, "The gateway server 20 performs the function of a web server."
However, the '361 Morris patent does not provide any further disclosure and, in particular provides no teaching as to how this function is performed and, in particular no teaching of an internal web server within the gateway device.

However, the Examiner finds that the Applicants' arguments are not persuasive because Morris discloses, "*the image gateway 18 includes a gateway server 20*" (Morris, col.5, lines 26-27) and that "*the gateway server 20 performs the function of a web server*" (Morris, col.5, lines 42-43). Furthermore, referring to figure 1, Morris

discloses a gateway server 20 (i.e., Applicants' *internal web server*) that is included in the *image gateway 18* (i.e., Applicants' *gateway device*). Hence, Morris teaches of a web server that is internal to a gateway device.

With regard to heading B.1, the Applicants point out that:

- As claimed, the internal web server communicates with both the XML interface and the Internet to facilitate XML-based communications between the gateway device and external devices connected to the Internet.

However, the Examiner finds that the Applicants' arguments are not persuasive because Meltzer discloses, "*the market maker node includes a communication agent 1500 at the network interface. The communication agent is coupled with an XML parser 1501 which supplies events to an XML processor 1502... The communication agent 1500 is an Internet interface which includes appropriate protocol stacks supporting protocols as HTTP, SMTP, FTP or other protocols. Thus, the incoming data could come in an XML syntax, an ASCII data syntax or other syntax as suits a particular communication channel. All the documents received in non-XML syntaxes are translated into XML and passed XML parser. A translation table 1506 is used to support the translation from non-XML form into XML form*" (Meltzer, col.79, lines 36-52). Hence, Meltzer teaches of a network node (i.e., Applicant's *gateway device*) that contains an XML parser and processor for translating and processing of the incoming non-XML data into XML data for communication with the enterprise's servers providing requested services.

With regard to heading B.2, the Applicants point out that:

- The Applicant Respectfully Asserts that the Examiner has Not Established a Prima Facie Case of Obviousness
- In addition to the lack of motivation to combine provided by the '675 Metzler patent, the Applicant asserts that the '361 Morris patent provides no such motivation to combine.

However, the Examiner finds that the Applicants' arguments are not persuasive because Morris discloses,

- *a subscriber interface for adapting to a subscriber computer that is connected to the gateway device to facilitate communications between the subscriber computer and at least one network; and* (Morris, col.3, lines 39-41; col.5, lines 42-49, lines 52-59; module 21 on sheet 1, fig.1)

Morris discloses, "*in a preferred embodiment, the gateway server 20 communicates with the meta-application 22 through gateway server meta-application programming interface (GCMAPI) 21. This GCMAPI 21 between the gateway server 20 and the meta-application 22 enables the gateway server 20 to pass the data and service requests of the client devices 12 to the meta-application 22 in a device independent fashion*" (Morris, col.5, lines 53-59).

Hence, Morris teaches of an interface (i.e., Morris' GCMAPI) that enables the subscriber computer (i.e., Morris' *client devices* such as *PC, digital camera, PDA, cell phone, etc.*) connected to the gateway device (i.e., Morris' *image gateway*) "*to pass the data and service requests of the client devices 12 to the meta-application 22 in a device independent fashion*" (Morris, col.5, lines 57-59).

However, Morris does not explicitly disclose,

- *an XML interface for communicating with an external device via a series of XML commands and responses such that the gateway device supports communications involving the subscriber computer and the external device without requiring the subscriber computer to support XML commands and responses.*

Meltzer teaches,

- *an XML interface for communicating with an external device via a series of XML commands and responses such that the gateway device supports communications involving the subscriber computer and the external device without requiring the subscriber computer to support XML commands and responses. (Meltzer, col.21, lines 41-45; col.23, lines 38-60; col.79, line 34 – col.80, line 21; modules 300-304 on sheet 3, fig.3; sheet 4, fig.4; fig.15)*

Meltzer discloses, *"the market maker node includes a communication agent 1500 at the network interface. The communication agent is coupled with an XML parser 1501 which supplies events to an XML processor 1502... The communication agent 1500 is an Internet interface which includes appropriate protocol stacks supporting protocols as HTTP, SMTP, FTP or other protocols. Thus, the incoming data could come in an XML syntax, an ASCII data syntax or other syntax as suits a particular communication channel. All the documents received in non-XML syntaxes are translated into XML and passed XML parser. A translation table 1506 is used to support the translation from non-XML form into XML form"* (Meltzer, col.79, lines 36-52). Hence, Meltzer teaches of a network node (i.e., Applicant's gateway device) that contains an XML parser and processor for translating and processing of the incoming non-XML data into XML

data for communication with the enterprise's servers providing requested services.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Meltzer with the teachings of Morris to “[facilitate] interactions amongst diverse platforms in a communication network. Such system should facilitate spontaneous commerce between trading partners without custom integration or prior agreement on industry wide standards. Furthermore, such systems should encourage incremental path to business automation, to eliminate much of the time, cost and risks of traditional systems integration” (Meltzer, col.2, lines 18-25). In addition, Morris discloses, “the meta-application 27 abstracts the underlying data model and the function provided by the photo-service sites 14, which is common across the photo-service sites 14, to define a common data model format for the data, referred to here as a meta photo-service model. In a preferred embodiment, the meta photo-service model is implemented using XML” (Morris, col.6, lines 1-7). Hence, Morris provides the motivation for one of ordinary skill in the art to combine the teachings of Meltzer to translate non-XML data to XML data by a communication node to facilitate interactions amongst diverse platforms in a communication network.

With regard to heading B.3, the Applicants point out that:

- The Primary Reference ('361 Morris Patent) and the Secondary Reference ('675 Meltzer Patent) do Not Disclose a Gateway Device that is Located at a Network Access Point in the Network.

However, the Examiner finds that the Applicants' arguments are not persuasive because Morris discloses, "*the image gateway 18 includes a gateway server 20*" (Morris, col.5, lines 26-27) and that "*the gateway server 20 performs the function of a web server*" (Morris, col.5, lines 42-43). Furthermore, referring to figure 1, Morris discloses a gateway server 20 (i.e., Applicants' *internal web server*) that is included in the *image gateway 18* (i.e., Applicants' *gateway device*). In addition, according to Morris, "*the gateway performs two basic services for the client. First it is the camera's home base, which provides authentication services (user and device) and configuration services (it updates the camera's configuration, so the user doesn't have to)*" (Morris, col.2, lines 10-14). Also, referring to figure 1 of Morris, from the perspective of the client devices such as PC, digital camera, PDA, cell phone, etc., the image gateway 18, which includes the internal gateway server 20, is the "*network access point*" to the photo service sites 14's. Even furthermore, well known to one of ordinary skill in the networking art, the term "*gateway*" is synonymous with a "*network access point*". Hence, Morris teaches of a gateway server that is internal to an image gateway, which is also a "*network access point*" from the perspective of the photo service sites 14's.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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August 18, 2006

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